UNITED STATES DISTRICT COURT
Western District of Texas
Waco Division

CROSS TRAILERS, INC., Plaintiff, v. CROSS TRAILER MANUFACTURING AND SALES, LLC, Defendant.	)))))))))	CASE NO.: 6:16-cv-00418 **JURY TRIAL DEMAND**

COMPLAINT FOR TRADEMARK INFRINGEMENT

For its Complaint against Defendant, Plaintiff alleges as follows:

1. Plaintiff, Cross Trailers, Inc., ("Cross") is an Indiana corporation with a business address of 2203 Randolph Street, Elkhart, Indiana 46514.

2. Defendant, Cross Trailer Manufacturing and Sales, LLC, ("CTM"), is a Texas limited liability company with a business address of 770 North Highway 6, Waco, Texas 76712.

3. Jurisdiction over this action is based on 28 U.S.C. §§1331 and 1338, because this action is for federal trademark infringement. Venue is proper in this district under 28 U.S.C. §1391(b), because Defendant resides in this judicial district.

4. Cross has, at least since March 1, 2013, continuously manufactured and sold cargo trailers under the trademark CROSS. Cross has invested significant time and money in developing consumer recognition of its CROSS trademark, and in building goodwill for that trademark, which is attributed to Cross. Cross sells its cargo trailers using the CROSS brand in interstate commerce, through means including internet advertising, such as www.cross-trailers.com. Consumers recognize CROSS as a trademark for the cargo trailers of Cross.

5. Cross is the owner of U.S. Trademark Registration No. 4,520,252 for the mark "CROSS," as applied to "cargo trailers" in International Class 12. This registration was issued by the U.S. Patent and Trademark Office ("USPTO") on April 29, 2014. This registration is publically available for inspection via the USPTO internet web site, www.uspto.gov.

6. On or after May 16, 2014, CTM began using the mark CROSS as a trademark for cargo trailers. An exemplar cargo trailer marketed by CTM under the CROSS trademark is shown below:



7. CTM markets cargo trailers under the CROSS trademark in interstate commerce, through means including internet advertising, such as www.crosstrailermfg.com.

8. Cross's use of CROSS as a trademark for cargo trailers pre-dates CTM's use of CROSS for cargo trailers. CTM knew or should have known about Cross' trademark rights in, and federal registration of, the CROSS trademark prior to adopting CROSS as a mark. As the "junior user," CTM had a legal obligation to steer clear of Cross' trademark rights.

9. CTM's use of the mark CROSS in connection with cargo trailers is likely to cause consumer confusion, or to cause mistake, or to deceive as to affiliation, connection, or association of CTM with CROSS, or as to origin, sponsorship, or approval of CTM's goods by Cross. CTM's use of the mark CROSS in connection with cargo trailers has caused actual confusion in the market for cargo trailers, which has been detrimental to Cross's sales of its CROSS cargo trailers.

10. Accordingly, CTM's use of the trademark CROSS is causing significant monetary damage and injury to Cross and is causing irreparable harm to Cross. Therefore, CTM is infringing upon Cross' trademark rights in the CROSS trademark.

11. On or about June 9, 2015, Cross notified CTM of the trademark infringement, and requested that CTM cease that infringement. Despite numerous telephone conferences and correspondence between the attorneys for each party, CTM did not cease that trademark infringement. Accordingly, at least since September, 2015, CTM has been a wilful infringer of the CROSS trademark rights of Cross.

Accordingly, Plaintiff requests the following relief from this Court:

a. This Court hold that CTM is a wilful infringer of Cross' trademark rights in the mark CROSS, as applied to cargo trailers,

b. CTM is preliminarily and permanently enjoined from use of the mark CROSS in connection with cargo trailers,

c. CTM is accountable to Cross for all of CTM's sales of cargo trailers under the CROSS brand, and is ordered to provide that accounting and payment of the total sales receipts to Cross,

d. CTM shall reimburse Cross for all of Cross' expenses and reasonable attorney fees incurred in connection with this litigation, and

e. All such further relief as is appropriate under the circumstances of this case.

JURY DEMAND: Plaintiff requests trial by jury as to all issues so triable.

November 2, 2016

Respectfully submitted,

s/Scott B. Aston

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